

No. 12923

United States
Court of Appeals
for the Ninth Circuit.

JEWELL JAMES WILLIAMS,

Appellant,

vs.

E. B. SWOPE, Warden, U. S. Penitentiary, Alca-
traz, California,

Appellee.

Transcript of Record

Appeal from the United States District Court
Northern District of California,
Southern Division.

FILED
JUN 18 1961
THOMAS J. G. WHELAN
CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

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In the District Court of the United States for
the Northern District of California, Southern
Division

No. 29829

JEWELL JAMES WILLIAMS,

Petitioner,

vs.

E. B. SWOPE,

Respondent.

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Jewell James Williams, by this, his petition for writ of habeas corpus, avers:

1. Petitioner is confined and restrained of his liberty by E. B. Swope, Warden of the United States Prison at Alcatraz, California.

2. The claim of right so to restrain petitioner is based on a sentence imposed by the District Court of the United States for the Western District of Arkansas, Fort Smith Division, being case number 4631 therein; a sentence imposed by the District Court of the United States in and for the Western District of Missouri, Southern Division, being case number 5208 therein; and a sentence imposed by the District Court of the United States in and for the District of Connecticut, being Case number 7601 therein.

3. The sentence first above mentioned is void as having been imposed in violation of the Constitution of the United States in that petitioner was compelled

by the court to bear witness against himself; the sentence next above mentioned is void in that petitioner was by the court denied assistance of counsel at the trial of said cause by refusing petitioner an opportunity to confer with counsel and prepare his case. The sentence last above mentioned has been served by petitioner less good-time allowance in which behalf petitioner avers that he was not, though by law, he ought to have been, awarded said good-time allowance.

Wherefore, your petitioner prays that a writ of habeas corpus issue out of this court commanding the said E. B. Swope to have before this court the body of petitioner, Jewell James Williams, then and there to do and receive that which by law is proper.

/s/ JOSEPH L. BORTIN,
Attorney for Petitioner.

State of California,
City and County of San Francisco—ss.

Jewell James Williams deposes:

I am the petitioner in the foregoing petition for writ of habeas corpus. I have read the foregoing petition, and know the contents thereof, and the same is true of my own knowledge except as to those matters therein stated upon information and belief and, as to those things, I believe it to be true.

/s/ JEWELL JAMES WILLIAMS.

Subscribed and sworn to before me this 1st day of June, 1950.

[Seal] /s/ B. J. MADIGAN,
 Notary Public,
 Associate Warden.

Warden—Associate Warden authorized by the Act of February 11, 1938, to administer oaths.

Records at U. S. Penitentiary, Alcatraz, California, indicate that James J. Williams is a citizen of the United States.

[Endorsed]: Filed June 13, 1950.

[Title of District Court and Cause.]

ORDER TO SHOW CAUSE WHY WRIT OF
HABEAS CORPUS SHOULD NOT ISSUE

Upon reading and filing the verified petition herein of Jewell James Williams, good cause appearing therefor, it is now by the court

Ordered that the respondent, E. B. Swope, appear before the Honorable Herbert W. Erskine, one of the judges of the above-entitled court, on June 23, 1950, at 10:00 a.m., in room 307, Post Office Building, 7th and Mission Streets, San Francisco, California, then and there to show cause, if any he have, why a writ of habeas corpus should not issue in the above-entitled cause.

Dated: June 13, 1950.

/s/ HERBERT W. ERSKINE,
Judge of the United States
Court.

[Endorsed]: Filed June 13, 1950.

[Title of District Court and Cause.]

RETURN TO ORDER TO SHOW CAUSE

Comes now E. B. Swope, Warden of the United States Penitentiary at Alcatraz, California, through Frank J. Hennessy, United States Attorney for the Northern District of California, and for cause why a writ of habeas corpus should not issue herein, shows as follows:

I.

That the person hereinafter called "the petitioner," on whose behalf the petition for writ of habeas corpus was filed, is detained by respondent, E. B. Swope, as Warden of the United States Penitentiary at Alcatraz, California, under and by virtue of the judgments and sentences and warrants of commitment duly and regularly issued in criminal cause numbered 21,932 by the District Court of the United States for the Eastern District of Louisiana, New Orleans Division, on June 6, 1945; in criminal cause numbered 7601 by the District Court of the United States for the District of Connecticut, on October 22, 1945; in criminal cause numbered 5208 by the District Court of the United States for the Western District of Missouri, Southern Division, on October 9, 1946; and in criminal cause numbered 4631 by the District Court of the United States for the Western District of Arkansas, Fort Smith Division, on February 3, 1947, and transfer order dated the 13th day of August, 1948, and signed by Frank Loveland, Assistant Director of the Bureau of Pris-

ons of the Department of Justice, of the United States of America.

II.

That attached thereto and made a part hereof, as respondent's Exhibit "A," are the following:

1. Copy of judgment and sentence and warrant of commitment duly and regularly issued in criminal cause numbered 21,932, as aforesaid;

2. Copy of judgment and sentence and warrant of commitment duly and regularly issued in criminal cause numbered 7601, as aforesaid, together with certified copies of indictment and docket entries for the period of December 5, 1944, through June 9, 1949, in said criminal cause numbered 7601, as aforesaid;

3. Certified copy of judgment and sentence and warrant of commitment duly and regularly issued in criminal cause numbered 5208, as aforesaid, together with certified copies of indictment, clerk's minutes, and docket entries in criminal cause numbered 5208, as aforesaid;

4. Certified copy of judgment and sentence and warrant of commitment duly and regularly issued in criminal cause numbered 4631, as aforesaid, together with certified copies of indictment and docket entries in criminal cause numbered 4631, as aforesaid;

5. Transfer order, as aforesaid;

6. Record of Court Commitment, Depart-

ment of Justice, Penal and Correctional Institutions, No. 818-AZ.

III.

That the respondent is informed and believes and further alleges that petitioner's right to assistance of counsel was not denied him during any stage of the proceedings before the District Court of the United States for the Western District of Missouri, Southern Division, in said criminal cause numbered 5208.

IV.

That the respondent is informed and believes and further alleges that the petitioner was not compelled by the Court to bear witness against himself during any stage of the proceedings before the District Court of the United States for the Western District of Arkansas, Fort Smith Division, in said criminal cause numbered 4631.

V.

That the respondent is informed and believes and further alleges that none of the constitutional rights of the petitioner were denied him during any stage of the proceedings before the District Court of the United States for the Western District of Missouri, Southern Division, in said criminal cause numbered 5208, or before the District Court of the United States for the Western District of Arkansas, Fort Smith Division, in said criminal cause numbered 4631; (177 Fed. (2d) 97).

VI.

That the respondent further alleges that the sentences heretofore imposed upon the petitioner in said criminal causes numbered 21,932, 7601, and 5208 were inoperative for 350 days because the said petitioner was out of custody as a result of two different escapes.

VII.

That the respondent further alleges that in said criminal causes numbered 21,932, 7601, and 5208, petitioner forfeited 406 days, good time, and in said criminal cause numbered 4631 said petitioner forfeited 280 days, good time; that respondent denies that such forfeiture was not proper.

VIII.

That aside from the denial of the allegation as made by the petitioner that good-time credits were improperly forfeited, respondent further shows that as a matter of law a Court cannot by way of habeas corpus inquire into such matters, but can only deliver from imprisonment those who are illegally confined. *Snow v. Roche*, (CCA-9), 143 Fed. (2d) 718, cert. denied, 323 U. S. 788.

IX.

That the respondent further alleges that the petitioner has not fully served the sentence heretofore imposed against him by the District Court of the United States for the District of Connecticut in said criminal cause numbered 7601, nor has the petitioner fully served the term of imprisonment heretofore imposed against him by the District Court of the United States for the Western District of Missouri, Southern Division, in said criminal cause numbered 5208, nor has petitioner fully served the term of imprisonment heretofore imposed against him by the District Court of the United States for the Western District of Arkansas, Fort Smith Division, in said criminal cause numbered 4631.

That the respondent further shows that since the petitioner has not fully satisfied the sentence imposed against him by the District Court of the United States for the District of Connecticut, in said criminal cause numbered 7601, for reasons hereinabove set forth, petitioner's collateral attack against the judgments and sentences heretofore entered against him in said criminal causes numbered 5208 and 4631 by the District Courts of the United States for the Western District of Missouri, Southern Division, and for the Western District of Arkansas, Fort Smith Division, respectively, is premature, and can furnish him no relief by way of habeas corpus. *McNally v. Hill*, 293 U. S. 131.

Wherefore, the respondent prays that the petition for writ of habeas corpus be denied and the

order to show cause heretofore issued herein be discharged.

Dated: July 7, 1950.

/s/ FRANK J. HENNESSY,
United States Attorney.

/s/ JOSEPH KARESH,
Assistant United States Attorney, Attorneys for
Respondent.

[Endorsed]: Filed July 7, 1950.

[Title of District Court and Cause.]

TRAVERSE TO RETURN

And the petitioner, by way of traverse to respondent's return herein, avers:

1. Since the filing of the petition herein, to wit, on October 30, 1950, the sentence heretofore imposed on petitioner by the United States District Court in and for the District of Connecticut, being case number 7601 therein, was completely served by petitioner less good-time allowances duly credited to petitioner herein.

2. Since the filing of the petition herein transcripts of proceedings before the United States District Court of the Western District of Arkansas, Fort Smith Division, and the United States District Court in and for the Western District of Missouri,

Southern Division, being respectively cases 4631 and 5208 therein, have been filed with the court, on the basis whereof, petitioner avers that said sentences are void for the reasons heretofore set forth in the original petition herein. And petitioner avers that the said transcripts are true and correct insofar as they relate to this petition, and the same are herein incorporated by reference.

Wherefore, petitioner prays that a writ of habeas corpus issue out of this court commanding the said E. B. Swope to have before this court the body of petitioner, Jewel James Williams, then and there to do and receive that which by law is proper.

/s/ JOSEPH L. BORTIN,
Attorney for Petitioner.

[Endorsed]: Filed November 6, 1950.

In the United States District Court for the Northern
District of California, Southern Division

No. 29829

In the Matter of:

The Application of JEWELL JAMES WIL-
LIAMS for a Writ of Habeas Corpus.

ORDER FOR ISSUANCE OF
WRIT OF HABEAS CORPUS

This matter having come on regularly for hearing this 24th day of November, 1950, on the Peti-

tion for Writ of Habeas Corpus, the Order to Show Cause, the Return to Order to Show Cause, and the Traverse to the same, and counsel for the petitioner and the respondent having in open Court this day been heard, and by oral stipulation agreed that if an Order for a Writ of Habeas Corpus should issue, with the consent of the Court, it should be made returnable on the 28th day of November, 1950, at 2:00 o'clock p.m., the matter thereupon having been submitted, and Good Cause Appearing Therefor,

It Is Hereby Ordered that a writ of habeas corpus issue herein, directing the respondent, E. B. Swope, Warden, United States Penitentiary, Alcatraz, California, to have the body of Jewell James Williams, together with the day and cause of his being taken and detained in this Court on said day and time above mentioned, and then and there to submit to and receive whatsoever the Court shall then and there consider in that behalf.

Dated November 24, 1950.

/s/ MICHAEL J. ROCHE,
Chief United States
District Judge.

[Endorsed]: Filed November 24, 1950.

[Title of District Court and Cause.]

WRIT OF HABEAS CORPUS

The President of the United States to E. B. Swope,
Warden of the United States Penitentiary,
Alcatraz, California, and to Whomsoever Else
May Have in Custody the Body of Jewell
James Williams:

Greetings:

You Are Hereby commanded that the body of
Jewell James Williams, by you restrained of his
liberty, as it is said, detained by whatever name the
said Jewell James Williams may be detained, to-
gether with the day and cause of his being taken
and detained, you have before the Honorable Micheal
J. Roche, Chief United States District Judge
for the Northern District of California, Southern
Division, at the court room of the Court in the
City and County of San Francisco, California, at
2:00 o'clock p.m., on the 28th day of November,
1950, then and there to do, submit them and receive
whatsoever the said Judge shall then and there
consider in that behalf, and have you then and there
this writ.

Witness, the Honorable Michael J. Roche, Chief
United States District Judge, at San Francisco, this
24th day of November, 1950.

C. W. CALBREATH,
Clerk.

[Seal] By /s/ T. R. PETTIGREW,
Deputy Clerk.

Marshal's Return

Received this writ on November 24, 1950, and executed same on November 28, 1950, by mailing a copy of this writ to Warden Swope at Alcatraz penitentiary together with a certified copy of the minute order continuing the case until December 6, 1950. Warden Swope, by telephonic conversation, agreed to accept service in this manner.

EDWARD J. CARRIGAN,
U. S. Marshal.

By /s/ JAMES F. EAGAN,
Deputy.

Received November 24, 1950.

[Endorsed]: Filed November 30, 1950.

[Title of District Court and Cause.]

TRAVERSE TO RETURN

And the petitioner, Jewell James Williams, by way of traverse to respondent's return to writ of habeas corpus duly issued in this cause, avers:

1. He denies each and every, all and singular, the allegations of paragraph I of respondent's said return and, in this behalf, avers further that the sentences referred to in said paragraph I, of the District Court of the United States for the Western District of Arkansas, Fort Smith Division, and the District Court of the United States for the Western District of Missouri, Southern Division, are void

for the reasons heretofore set forth in petitioner's original petition and traverse to return to the order to show cause originally filed in this cause, said petition and traverse being herein incorporated by reference.

2. He denies each and every, all and singular, the allegations of paragraph III of respondent's said return and, in this behalf, further avers that he did not voluntarily plead guilty in said cause; that he was sentenced upon a plea of not guilty; that he was compelled to bear witness against himself by being compelled by the court to plead in said cause; and that he was not fully and competently represented by counsel in said cause to the certain knowledge of the court and prosecuting attorney.

3. And as a part of petitioner's traverse, he incorporates herein by reference the record of proceedings of the United States District Court for the Western District of Missouri, Southern Division, case number 5208 therein, and the record of proceedings of the United States District Court for the Western District of Arkansas, Fort Smith Division, case number 4631 therein, which said records are currently on file with the clerk of this court.

Wherefore, petitioner prays that he be hence discharged from the custody of respondent herein.

/s/ JOSEPH L. BORTIN,
Attorney for Petitioner.

[Endorsed]: Filed December 6, 1950.

[Title of District Court and Cause.]

RETURN TO WRIT OF HABEAS CORPUS

Comes now E. B. Swope, Warden of the United States Penitentiary, at Alcatraz, California, through Frank J. Hennessy, United States Attorney for the Northern District of California, and Joseph Karesh, Assistant United States Attorney for the Northern District of California, and for Return to Writ of Habeas Corpus heretofore issued herein, shows as follows:

I.

That the person hereinafter called "the petitioner," on whose behalf the petition for writ of habeas corpus was filed, is detained by respondent, E. B. Swope, as Warden of the United States Penitentiary at Alcatraz, California, under and by virtue of the judgments and sentences and warrants of commitment duly and regularly issued in criminal cause numbered 21,932 by the District Court of the United States for the Eastern District of Louisiana, New Orleans Division, on June 6, 1945; in criminal cause numbered 7601 by the District Court of the United States for the District of Connecticut, on October 22, 1945; in criminal cause numbered 5208 by the District Court of the United States for the Western District of Missouri, Southern Division, on October 9, 1946; and in criminal cause numbered 4631 by the District Court of the United States for the Western District of Arkansas, Fort Smith Division, on February 3, 1947, and transfer

order dated the 13th day of August, 1948, and signed by Frank Loveland, Assistant Director of the Bureau of Prisons of the Department of Justice, of the United States of America.

II.

That the Return to Order to Show Cause heretofore filed herein is hereby referred to and incorporated herein as though set forth in full.

III.

That the respondent is informed and believes and further alleges that the petitioner, who was represented by counsel, intelligently, intentionally, freely and voluntarily, pleaded guilty before the District Court of the United States for the Western District of Arkansas, Fort Smith Division, to the charges contained in the indictment returned against him in Criminal Cause numbered 4631.

IV.

That Exhibit "A," heretofore filed and made a part of respondent's Return to Order to Show Cause herein, is hereby referred to and incorporated herein as a part of this Return to Writ of Habeas Corpus as though set forth in full.

Wherefore, respondent prays that the Writ of Habeas Corpus be discharged, and the Petition for Writ of Habeas Corpus be dismissed.

Dated December 6, 1950.

/s/ FRANK J. HENNESSY,
United States Attorney,

/s/ JOSEPH KARESH,
Assistant United States Attorney, Attorneys for
Respondent.

[Endorsed]: Filed December 6, 1950.

[Title of District Court and Cause.]

ORDER DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS

Upon the entry of appropriate Findings of Fact
and Conclusions of Law,

It Is Hereby Ordered that the Petition for Writ
of Habeas Corpus be, and the same is, dismissed,
and the Writ of Habeas Corpus is discharged.

The respondent may have ten days within which
to submit his proposed Findings of Fact and Con-
clusions of Law.

Dated February 13, 1951.

/s/ MICHAEL J. ROCHE,
Chief United States
District Judge.

[Endorsed]: Filed February 13, 1951.

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above-entitled cause having been submitted by the parties hereto, Joseph L. Bortin, Esquire, appearing as counsel for the petitioner, and Frank J. Hennessy, Esquire, United States Attorney for the Northern District of California, and Joseph Karesh, Esquire, Assistant United States Attorney for the Northern District of California, appearing as counsel for respondent, and evidence both oral and documentary having been introduced and the petitioner having been heard in person under a writ of habeas corpus duly issued, and the Court being fully advised in the premises, makes its findings of fact and conclusions of law as follows:

Findings of Fact

I.

That petitioner is a citizen of the United States.

II.

That the person hereinafter called "the petitioner," on whose behalf the petition for writ of habeas corpus was filed, is detained by respondent, E. B. Swope, as Warden of the United States Penitentiary at Alcatraz, California, under and by virtue of the judgments and sentences and warrants of commitment duly and regularly issued in criminal cause numbered 21,932 by the District Court of the United States for the Eastern District of

Louisiana, New Orleans Division, on June 6, 1945; in criminal cause numbered 7601 by the District Court of the United States for the District of Connecticut, on October 22, 1945; in criminal cause numbered 5208 by the District Court of the United States for the Western District of Missouri, Southern Division, hereinafter called the "Missouri Court," on October 9, 1946; and in criminal cause numbered 4631 by the District Court of the United States for the Western District of Arkansas, Fort Smith Division, hereinafter called the "Arkansas Court," on February 3, 1947, and transfer order dated the 13th day of August, 1948, and signed by Frank Loveland, Assistant Director of the Bureau of Prisons of the Department of Justice, of the United States of America.

III.

That with good-time credits earned, petitioner has fully served the sentences imposed upon him by the District Court of the United States for the Eastern District of Louisiana and by the District Court of the United States for the District of Connecticut; that the petitioner has not fully served either the sentence imposed upon him by the Missouri Court or the sentence imposed upon him by the Arkansas Court.

IV.

That petitioner attacks the Missouri judgment and sentence on the ground that he was denied the effective assistance of counsel by being refused a continuance necessary in the preparation of his

case, request having been made by his counsel on the morning of petitioner's arraignment when petitioner and his counsel first consulted together about petitioner's case; that petitioner attacks the Arkansas judgment and sentence on the ground that he was inadequately represented by counsel and that he did not understand the significance of his plea of guilty, was coerced into entering such plea, and was compelled to testify against himself at the time of his arraignment and plea.

V.

That the record of trial before the Missouri Court, which has been made an exhibit in these habeas corpus proceedings, will show that, even though the petitioner was compelled to proceed to trial on the afternoon of the same day on which he was arraigned and after only a brief consultation with his counsel and after the Court had refused petitioner a continuance to further prepare his defense, none the less the said attorney showed a remarkable grasp of the issues of this case and was able to, and did, give the petitioner effective assistants of counsel, and thus his appointment to use the language of the Supreme Court in *Avery vs. Alabama*, 308 U. S. 444, at page 446, was not a "mere formal appointment," but on the other hand, constituted a representation of the highest caliber.

VI.

That heretofore petitioner filed a motion to vacate the judgment and sentence imposed upon him by

the Arkansas Court, alleging in substance, as he does in the habeas corpus proceedings herein, that he was inadequately represented by counsel and that he did not understand the significance of his plea of guilty and was coerced into entering such plea; that this motion was denied; that thereupon petitioner filed an appeal from this denial of his motion to vacate, and on appeal the United States Court of Appeals for the Eighth Circuit affirmed the order of the Arkansas Court denying the motion to vacate and in its opinion concluded as follows:

“* * * Apparently what the defendant would have us believe is that he did not know the significance of his pleas of guilty; that his counsel did not adequately represent him at the time of arraignment; and that in some way the court coerced him into entering pleas of guilty. These contentions are all in the teeth of the record, which clearly indicates that the defendant knew exactly what he was doing, and that he was shown every consideration by the trial judge, who was meticulously careful to see that the defendant's rights were fully protected and that he was advised with respect to each count of the indictment. There is nothing in the record to justify the assertion that counsel appointed by the District Court did not competently represent the defendant. There is no basis for invalidating the sentence imposed under any count of the indictment.”

Williams vs. United States,

177 F. 2d 97, 98;

that this Court adopts the language of the United States Court of Appeals for the Eighth Circuit as its findings herein with relation to the attack made by petitioner against the judgment and sentence of the Arkansas Court; that petitioner was not compelled to testify against himself at any stage of the proceedings before the Arkansas Court.

VII.

That petitioner is a confirmed criminal and has a record of felony convictions prior to his convictions before the said Missouri and Arkansas Courts.

VIII.

That the petitioner at all times throughout his appearances before the Missouri Court and the Arkansas Court was of sane and sound mind and fully understood the nature of the charges pending against him.

IX.

That none of the constitutional rights of petitioner was denied him by either the Missouri Court or the Arkansas Court.

X.

That the Missouri Court and the Arkansas Court at all times had jurisdiction over the person of petitioner and the offenses charged in the indictments returned against him.

Conclusions of Law

I.

That the petitioner has failed to prove any

grounds warranting his release on a writ of habeas corpus.

II.

That the petitioner was not denied any of his constitutional rights before the trial court.

III.

That there is no merit to the petition for writ of habeas corpus on file herein.

IV.

That petitioner has failed to sustain the burden of proving that he was denied effective assistance of counsel before the Missouri Court.

V.

That petitioner was not denied the effective assistance of counsel before the Missouri Court.

VI.

That the petitioner has failed to sustain the burden of proving that he did not competently, intentionally, and intelligently plead guilty to the charges contained in the indictment returned against him before the Arkansas Court and that he was compelled to testify against himself before the said Court.

VII.

That the petitioner competently, intentionally and intelligently plead guilty to the charges contained in the indictment returned against him before the

Arkansas Court and was not compelled to testify against himself before the said Court; that the petitioner was afforded the effective assistance of counsel before the said Arkansas Court.

VIII.

That the petitioner is now in the legal and lawful custody and control of the respondent.

It Is Therefore, Now Ordered, Adjudged and Decreed that the writ of habeas corpus issued herein be, and the same is hereby discharged, and that the petition for writ of habeas corpus herein be, and the same is hereby, dismissed.

Dated: March 21, 1951.

/s/ MICHAEL J. ROCHE,
Chief United States
District Judge.

Lodged March 12, 1951.

[Endorsed]: Filed March 21, 1951.

In the United States District Court for the Northern District of California, Southern Division

No. 29829

JEWELL JAMES WILLIAMS,

Petitioner,

vs.

E. B. SWOPE,

Respondent.

FINAL ORDER

For the reasons set forth in the Findings of Fact and Conclusions of Law filed herein,

It Is, Therefore, Now Ordered, Adjudged and Decreed that the writ of habeas corpus issued herein be, and the same is hereby discharged, and that the petition for writ of habeas corpus herein be, and the same is hereby, dismissed, and the petitioner is hereby ordered remanded to the custody and control of the respondent.

Dated March 21, 1951.

/s/ MICHAEL J. ROCHE,

Chief United States

District Judge.

[Endorsed]: Filed March 27, 1951.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Petitioner, Jewell James Williams, appeals to the United States Court of Appeals for the Ninth Circuit from the order and judgment of the above-entitled court in this cause discharging petitioner's writ of habeas corpus and dismissing his petition therefor.

Dated: April 19, 1951.

/s/ JOSEPH L. BORTIN,
Attorney for Petitioner.

[Endorsed]: Filed April 19, 1951.

[Title of District Court and Cause.]

DESIGNATION OF RECORD AND POINTS TO BE RAISED ON APPEAL

To the Clerk of the Above-Entitled Court:

Please Take Notice that appellant will require and hereby designates to be incorporated in the record on appeal in the above-entitled cause, the following:

1. Petition for Writ of Habeas Corpus.
2. Order to Show Cause Why Writ of Habeas Corpus should not issue.
3. Return to Order to Show Cause.
4. Order for Issuance of Writ of Habeas Corpus.

5. Writ of Habeas Corpus.
6. Return to Writ of Habeas Corpus.
7. Traverse to Return.
8. Briefs of respective counsel.
9. Findings of Fact and Conclusions of Law.
10. Final Order (Discharging Writ of Habeas Corpus).
11. Notice of Appeal.
12. Petitioner's exhibits.

Appellant will rely in this appeal on the points heretofore raised in briefs filed in this cause in the trial court designated item 8 above.

Dated: May 5, 1951.

/s/ JOSEPH L. BORTIN,
Attorney for Petitioner.

Receipt of copy acknowledged.

[Endorsed]: Filed May 7, 1951.

[Title of District Court and Cause.]

COUNTER-DESIGNATION OF CONTENTS OF
RECORD ON APPEAL UNDER RULE 75(a)

To the Clerk of the Above-Entitled Court:

E. B. Swope, Warden of the United States Penitentiary at Alcatraz, California, the Respondent-

Appellee herein, hereby designates the complete record and proceedings in the above-entitled case, including all exhibits, for inclusion in the record on appeal.

Dated: May 9, 1951.

/s/ FRANK J. HENNESSY,
United States Attorney,

/s/ JOSEPH KARESH,
Assistant United States Attorney, Attorneys for
Respondent-Appellee, E. B. Swope, Warden,
United States Penitentiary, Alcatraz, Calif.

[Endorsed]: Filed May 9, 1951.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK TO
RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the District Court of the United States for the Northern District of California, do hereby certify that the foregoing documents and accompanying exhibits, listed below, are the originals filed in this Court, in the above-entitled case, and that they constitute the Record on Appeal herein, as designated by the attorney for the appellant, to wit:

Petition for Writ of Habeas Corpus.

Order to Show Cause Why Writ of Habeas Corpus Should Not Issue.

Return to Order to Show Cause (Filed July 7, 1950).

Traverse to Return (Filed November 6, 1950).

Order for Issuance of Writ of Habeas Corpus.

Writ of Habeas Corpus.

Traverse to Return (Filed December 6, 1950).

Return to Writ of Habeas Corpus.

Petitioner's Opening Brief.

Respondent's Memorandum of Points and Authorities.

Petitioner's Reply Brief.

Order Dismissing Petition for Writ of Habeas Corpus (Filed February 13, 1951).

Findings of Fact and Conclusions of Law.

Final Decree.

Notice of Appeal.

Designation of Record and Points to Be Raised on Appeal.

Counter-Designation of Contents of Record on Appeal Under Rule 75(a).

Petitioner's Exhibit No. 1—Transcript of Evidence in Case No. 5208 Criminal, United States of America, Plaintiff, vs. Jewell James Williams, alias Charles McKay Saunders, Gene Adams, et al., in the District Court of the United States in and for the Southern Division of the Western District of Missouri (Pages 1-114).

Petitioner's Exhibit No. 2—Transcript in Case No. 4631 Criminal, United States vs. Jewell James Williams, alias Charles McKay Saunders, in the United States District Court, Western District of

Arkansas, Fort Smith Division (Pages 35-37 and 21-34).

Respondent's Exhibit A.

Respondent's Exhibit B—Summary of Sentences Imposed Against Petitioner.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court this 9th day of May, A.D. 1951.

[Seal] C. W. CALBREATH,
Clerk,

By /s/ M. E. VAN BUREN,
Deputy Clerk.

[Endorsed]: No. 12923. United States Court of Appeals for the Ninth Circuit. Jewell James Williams, Appellant, vs. E. B. Swope, Warden, U. S. Penitentiary, Alcatraz, California, Appellee. Transcript of Record. Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed May 10, 1951.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for
the Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit

No. 12923

JEWELL JAMES WILLIAMS,

Appellant,

vs.

E. B. SWOPE, Warden,

Appellee.

SUPPLEMENTARY STATEMENT OF POINTS
TO BE RAISED ON APPEAL AND DESIGNATION OF RECORD

To the Clerk of the Above-Entitled Court:

Please Take Notice that appellant, in this appeal, will raise the following points upon which he proposes to rely:

1. The court below erred in refusing to discharge appellant from custody.

2. The court below erred in finding the judgment and sentence of the United States District Court for the Western District of Arkansas, Fort Smith Division (case number 4631) to be proper and valid.

3. The court below erred in finding the judgment and sentence of the United States District Court for the Western District of Missouri, Southern Division (case number 5208), to be proper and valid.

Appellant hereby designates as the record mate-

rial to the consideration of the appeal the entire record forwarded in this cause from the court below with the exception of the briefs of counsel therein.

Dated: May 23, 1951.

/s/ JOSEPH L. BORTIN,
Attorney for Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed May 23, 1951.